IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

First Appeal No. 467 of 2006

Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	**Court's or Judge's Orders.**

CORAM : **A.P. Lavande,J**
DATE : 6th October, 2006

Heard Shri N. R. Borkar, learned counsel for the appellants and Shri R. T. Anthy, learned counsel for the respondents.

2. This appeal has been preferred under section 384 of the Indian Succession Act, 1925 against the Judgment and order dated 22nd June, 2006 passed by the Civil Judge, Senior Judge, Nagpur in Succession Case No. 139 of 2002.

3. When the matter was called out for admission, Mr. Anthy, the learned counsel appearing for the respondents submitted that the appeal is not maintainable in this court and appeal would lie to the District Judge irrespective of value of subject matter of the application for succession certificate. In support of his submissions, he relied upon the Judgment in the case of Vitthal Ramchandra Mali vs. Laxmi Ganpati Mali (2006(4) Bom. C. R., 31). In the said Judgment the learned Single Judge of

this Court held that the appeal against the order passed under section 372 of the Indian Successions Act passed by the Civil Judge, Senior Division, would lie to the District Judge irrespective of value of subject matter. In the said Judgment the learned Judge directed to return memo of appeal along with accompaniments to the advocate appearing on behalf of the appellant for presentation to appropriate Court. The learned Judge also directed the Office to return all pending civil applications along with the memorandum of the First Appeal.

4. In view of the above Judgment, Mr. Borkar, the learned counsel for the appellant submits that similar order be passed in the present appeal. Accordingly, the Registrar(J) is directed to return memorandum of appeal along with accompaniments as well as the civil applications filed by the appellant to the advocate appearing for the appellant after taking xerox copies thereof. The xerox copies shall be maintained for the purpose of record.

Judge

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